

***STANDING PANEL OF
BANKRUPTCY TRUSTEES
SOUTHERN DISTRICT OF CALIFORNIA***

STANDING ADMINISTRATION GUIDELINES

This information is provided to assist attorneys and or pro per debtors in their preparation for 11 USC 341(a) Meetings, and understanding case administration in Chapter 7 matters.

I

Debtor's Attendance at Meeting of Creditors

In an effort at uniformity, we have adopted the same policy as the Standing Chapter 13 Trustees.

Debtors must attend the initial Meeting of Creditors and, unless excused by the Trustee, any continued Meeting of Creditors. Panel Trustees do not have the authority to excuse the debtor from attending his or her initial Meeting of Creditors. Special accommodations that are acceptable to the United States Trustee may be available where the debtor is unable to attend his or her initial Meeting of Creditors due to the following:

- 1. The debtor is incarcerated; or**
- 2. The debtor is unavailable due to unanticipated extended military assignment `i.e., at sea or stationed overseas; or**
- 3. The debtor is terminally ill and the U. S. Trustee has received evidence of such from the debtor's attending physician.**

Debtor's attorney or the debtor in pro per must independently contact the United States Trustee for consideration of alternative procedures, i.e., telephonic, etc. Debtor's attorney must be physically present at the time of the alternative procedure for conducting the Creditors Meeting, with a completed Questionnaire authenticated and executed by the debtor.

II

Motions to Dismiss

Cases filed as "bare bones" cases will be processed on the 16th day from filing for dismissal if the missing documents are not timely filed, or an extension requested before the expiration thereof. If you file such on the last day, you should contact the Trustee to so advise to avoid the necessity of an Application to Set Aside Dismissal.

Cases in which debtors do not appear at the Meeting, with the attorney not having a valid reason therefor, will be processed immediately for dismissal. Continuances will be granted only

in cases where a bona fide excuse exists.

III

Continuances

If you determine a conflict exists requiring a continuance please contact the Trustee's office immediately. If sufficient time exists the Trustee will provide you with a new date/time for you to Notice to all creditors. If insufficient time exists within the limitations set forth in Bankruptcy Rule 2003 (a), it will be necessary for you to appear and "take your chances" on a continuance. Debtor's attorney is cautioned to counsel clients regarding their required appearance pursuant to Bankruptcy Rule 2003 (a). The Panel Trustee has no authority to enlarge that appearance time frame and debtor's failure to so appear may result in dismissal.

It is the Panel's policy to not continue cases unless a bona fide reasonable excuse exists, however, requests will be considered on a case by case basis.

IV

Supporting Documentation

Certain supporting documentation is required in each case to allow the Trustee to fulfill his or her fiduciary duty. Specifically, in each case, where applicable, the debtor and/or the debtor's attorney must provide in addition to debtor's statements in the Schedules and Statements filed with the Court:

1. Written documentation supporting income earnings of the debtor and debtor's spouse (even if non-filing spouse) as set forth in Schedule I. In this regard it is necessary that the period of time involved be annotated on the documentation.

Further, if debtor is self-employed a Profit and Loss Statement must be prepared for the three (3) month period preceding case filing, and for the prior end of year. Profit and Loss Statements, unless professionally prepared by an accountant, must be in the format set forth in Exhibit A attached hereto.

2. Written documentation as to the basis for valuation of motor vehicles. In this regard a Statement of Value can be easily obtained via the Internet at www.kbb.com, and is the preferred form of valuation;

3. Written documentation as to the basis for valuation of real property. In this regard a Statement from a real property professional, i.e., agent or broker, or written declaration of the debtor confirming such a professional's opinion is acceptable. Debtors and debtor's attorneys

are directed to the Internet where it is possible to obtain comparable sales: www.homegain.com, and www.domania.com.

4. Copies of vehicle registration in all cases in which the vehicle is encumbered, as well as proof of payoff balance;

5. Copies of vehicle purchase contracts where the vehicle was purchased within 120 days of the filing of the petition.

6. Copies of Trust Deeds (not Grant Deeds), or other security instruments, documenting recording where non- institutional lenders are the alleged secured party;

7. Copies of documents demonstrating the actual loan advance by the creditor to debtor on Trust Deed/Note transactions;

8. Copies of UCC-1/Security Agreements documenting filing with the Secretary of State;

9. Copies of any Trust instrument in which the debtor has an interest of any type;

10. Copies of bank statements evidencing the balance on deposit as of the bankruptcy filing date;

11. Face sheet copy of proof of insurance on motor vehicles and real property; and

12. Face sheet copy of proof of insurance for any debtor operating a business including, but not limited to liability, casualty, workers compensation and errors and omissions.

All documents submitted should include a cover page indicating the date and time of the Creditors Meeting. If relevant documents are not provided in time for the Trustee to review such prior to the Creditors Meeting the matter will be continued with debtor, and debtor's counsel required to attend, unless specifically excused by the Trustee.

V

Disclosure of When Debtor Incurred Debt

Schedule D, E & F requires the debtor to provide "date claim was incurred." This information is necessary for Trustee to evaluate certain issues.

The required information is not the initial date a credit account was established. Our interpretation of the term "date claim was incurred" is the period between which the "amounts claimed" were actually incurred. This will require Counsel, or debtors in Pro Per, to adequately

perform their research duties under Bankruptcy Rule 9011, to provide the period of time that the current claim was incurred.

This information is required in order for the Trustee to fulfill his or her duties under 18 USC 3057(a) and 11 USC 727.

VI

Disclosure of Amount of Debt

As you are aware, in addition to a Trustee's obvious duty to liquidate non-exempt assets for the benefit of creditors, Trustees also examine a debtor's ability to participate in a Chapter 13 case pursuant to 11 USC 707(b). It is impossible to compute a Chapter 13 Plan when analyzing an 11 USC 707(b) case when debtor schedules "unknown" for an obligation. It is incumbent upon debtors to estimate all claims so that such an analysis can be conducted. In this analysis, debtors are not to overstate the claims, i.e., a repossession or foreclosure should reflect the deficiency, not the debt before repossession or foreclosure; and the actual pay off, not the eventual payments plus interest.

VII

Claim of Exemption

To ensure a married debtor, filing by his or herself, does not exempt property that would otherwise be available to creditors, or attempt to "stack" exemptions in separately filed cases, we require, in every case, compliance with CCP 703.140(a)(2). This section requires a married debtor filing without the spouse to elect the exemptions under CCP 704 et. seq., unless the non-filing spouse executes a written waiver. Even though there may not be any apparent equity interest to liquidate under either CCP 703 or CCP 704 et. seq., it is believed better policy to simply comply with the statute

VIII

Questionnaires to be Completed and Delivered at Creditors Meeting

A Questionnaire has been developed for individual debtors (Exhibit B hereto) and Partnership/Corporate debtors (Exhibit C hereto) to address certain inquiries that the Trustees believe will facilitate the examination of debtors. Debtors, and debtor's attorney, must execute the appropriate Questionnaire and deliver such to the Trustee at, or before, the Creditors Meeting. (Note: Trustee Akers utilizes a questionnaire different from Exhibit B hereto and should be contacted for such in his cases.)

IX
Unincorporated Self-Employed, Professionals, and Business Cases

In the event that a debtor is operating a business or conducting a profession utilizing property of the estate, at the commencement of his or her case, it is necessary for the business to be suspended and the Trustee contacted immediately upon filing. No business or profession utilizing property of the estate is to be conducted absent an Order of the United States Bankruptcy Court or written concurrence by the Trustee.

At a minimum, the Trustee is to be informed in writing within 24 hours of filing of the following:

- 1. The status and fair market value of all assets of the estate including secured, lessor or exemption claims, that are to be utilized in the business or profession operations;**
- 2. Evidence of current liability insurance coverage in connection with the operation of the business;**
- 3. Evidence of current Workers Compensation insurance in connection with the operation of the business, if applicable;**
- 4. Evidence of current Errors and Omissions insurance coverage, if applicable;**
- 5. Evidence of a reserve tax account to address employee/employer taxes; and**
- 6. The existence of any environmental, law enforcement or federal or state regulatory issues that affect the business or profession.**

Business operations utilizing property of the estate are not to be conducted post-petition under any circumstances prior to abandonment, or allowance of exemption of property of the estate utilized in the business or profession without the written concurrence of the Trustee, or Order of the United States Bankruptcy Court.

X
Corporate Cases

All business operations are to be terminated on the filing of the case. The Trustee is to be informed immediately of the following:

- 1. The identity and location of all remaining assets of the debtor corporation;**
- 2. The need for immediate action of the Trustee to preserve assets of the estate; and**

3. The existence of any environmental, law enforcement or federal or state regulatory issues that affect the business or profession.

XI

Conclusion

Cases in which the above guidelines are not complied with will, of necessity, be continued, or dismissed as a result of the Trustee's inability to administer such. In the case of continuances, the appearance of debtor and debtor's attorney will be required unless specifically excused by the Trustee.

Any questions, or special needs or problems in compliance should be addressed to the Trustee prior to the Creditors Meeting.

PROFIT AND LOSS STATEMENT

EXHIBIT "A"

I Declare that I have income for which there is no paystub of equivalent documentation as follows:

____ 1. My employer pays me on an independent contractor basis and reports my earnings to IRS using Form 1099 instead of Form W-2. Attached hereto are copies of the documentation I receive from my employer.

____ 2. I work free lance (check) ____ part-time ____ full-time as: _____

____ 3. I am self employed as: _____

____ 4. Other: _____

____ 5. I don't have financial statements from any accountant, or documentation that provide a convenient periodic summary. From my records I am able to approximate my income and expenses for the past ____ months as follows:

_____ TOTALS

INCOME _____

Total Income _____

EXPENSES _____

Total Expenses _____

Net Income _____

Average Net Income _____ \$ _____

I declare under penalty of perjury that the foregoing is true and correct except as to matters stated on information and belief, and as to as to such matters I believe them to be true, and that this declaration was executed in San Diego, California.

Dated: _____ X _____

341(a) Meeting of Creditors

Questionnaire

THIS FORM MUST BE COMPLETED, SIGNED AND RETURNED TO THE TRUSTEE AT THE TIME OF YOUR EXAMINATION

Name: _____

1. If you are represented by an attorney, have you reviewed your bankruptcy Schedules/or had them explained to you by counsel? Yes _____ No _____
2. Are you aware that upon filing your bankruptcy that fact may appear on credit history and you may experience difficulty in securing credit in the future? Yes _____ No _____
3. Are you aware that upon filing your bankruptcy you are under the protection of the law from creditors' attempts to collect their debt unless allowed to do so by the U.S. Bankruptcy Court? Yes _____ No _____
4. Do you understand that you are not required to, but if you decide to, reaffirm any debt that debt is effectively removed from the reach of the Court's discharge order and survives the bankruptcy? Yes _____ No _____
5. Do you understand that you may voluntarily choose to repay any debt to a creditor without reaffirming the debt? Yes _____ No _____
6. Do you understand and have you been advised of your right to file for reorganization (Chapter 11, 12, 13) and repay your debts rather than for bankruptcy liquidation (Chapter 7) under the Bankruptcy Code? Yes _____ No _____
7. Do you understand you are required to disclose all present and future rights to property and money to the Trustee and to not do so could result in civil, as well as criminal, penalties? Yes _____ No _____
8. Do you understand that you are to report to the Court and Trustee by formal written Amendment any post-bankruptcy discovered right (distinguished from payment) to an inheritance or life insurance that occurs within 180 days of the date your case was filed? Yes _____ No _____
9. If married, do you understand you are required to disclose all property rights and money of your spouse acquired during your marriage (regardless of the title of ownership), whether separated or living together? Yes _____ No _____
10. Are you a beneficiary under a will, trust or insurance policy where someone has died? Yes _____ No _____
11. Are you the beneficiary or trustee of a trust? Yes _____ No _____
12. Have you made any payments or transferred any property on a pre-bankruptcy debt to a family member or business associate within the past one year? Yes _____ No _____

13. Have you made any payments or transferred any property to any one creditor cumulatively in excess of \$5,000.00 on any debt within four years of filing bankruptcy? Yes____ No____
14. Do you have any interests in any partnerships? Yes____ No____
15. Have you or have you had in the past, any interests in offshore accounts, i.e., accounts outside the borders of the United States? Yes____ No____
16. Are you seeking recovery in any current lawsuits, or do you have a belief you have grounds to file a lawsuit or counter suit, whether you desire to do so or not, SEEKING DAMAGES? Yes____ No____
17. Do you have any claims or right to file claims against any insurance company? Yes____ No____
18. Do you share living expenses set forth in Schedule J with anyone? Yes____ No____
19. I understand I am required to disclose the approximate date I incurred the current scheduled debt balance indicated on Schedules D, E & F. I further understand this date does not refer to the initial date I was allowed to commence credit, but refers to the current balance and when that balance was incurred. I have discussed this requirement with my attorney, if any, and verify the dates set forth in my Schedules D, E and F are accurate. Yes____ No____
20. I hereby verify that all real property, mortgages or Deeds of Trust listed in Schedule D of my documents filed with the Court have been perfected by recording with the appropriate County Recorder, or other official if the real property is outside the State of California. Yes____ No____
21. I understand I am responding to the questions herein under oath and that the Trustee is relying on such information to administer my case, to tell the truth, and that my responses to questions and data given in the Petition, Statements, and Schedules I have filed with the Court are under penalty of perjury. I further acknowledge that I understand penalties of perjury to be up to \$500,000.00, in fines and/or five (5) years imprisonment. Yes____ No____

**I DECLARE UNDER PENALTY OF PERJURY THAT THE STATEMENTS
MADE HEREIN ARE TRUE AND CORRECT.**

Dated:

Debtor

Co-Debtor

I have reviewed and explained the questions herein to the debtor(s). I further certify that a reasonable inquiry, as required by Bankruptcy Rule 9011, was conducted in the preparation of the debtor(s) Schedules and Statements, and that I am aware of no changes necessary to those documents.

Dated:_____

Attorney for Debtors

**CORPORATE OR PARTNERSHIP DEBTOR QUESTIONNAIRE
AND DOCUMENT REQUIREMENTS**

**THIS FORM MUST BE COMPLETED, SIGNED AND RETURNED
TO THE TRUSTEE AT THE TIME OF YOUR EXAMINATION**

Name:

Briefly describe the nature of the debtor's business:

1. Have the bankruptcy schedules in this case been reviewed and explained to you by counsel?

Yes_____ No_____

2. Are the bankruptcy petition and schedules in this case complete, true and accurate?

Yes_____ No_____

3. Has the business entity made any payments to corporate officials, investors or shareholders, or partners; family members of corporate officials, investors or shareholder, or partners; on a pre-bankruptcy debt within one year of filing for bankruptcy?

Yes_____ No_____

4. Has the business entity made any payments to creditors in excess of \$5,000.00 cumulative on a pre-bankruptcy debt within three months of filing for bankruptcy?

Yes_____ No_____

5. Has the business entity transferred any money or anything of value to another entity or person within four years of filing for bankruptcy outside ordinary course of business?

Yes_____ No_____

6. Is the business entity seeking recovery in any current lawsuits, or is there a belief grounds exists to file a lawsuit or counter suit SEEKING DAMAGES?

Yes_____ No_____

7. Does the business entity have any claims against any insurance company for any losses or damages to any personal or real property?

Yes_____ No_____

8. Were any loans made by the business entity to any individual persons or entities?

Yes_____ No_____

9. Is the business entity entitled to any tax refunds or loss carry-backs?

Yes_____ No_____

10. When was business started and when did it stop operations: Start:_____ Stop:_____

11. Were any vehicles utilized in the business entities operations?

Yes_____ No_____

12. Does the business entity have any rights or interest in intellectual property?

Yes_____ No_____

13. Have any records of the business entity been destroyed?

Yes ____ No ____

14. Are there any known environmental and/or contamination issues or problems arising out of or relating to this business entity? Yes ____ No ____

15. I understand I am responding to the questions herein under oath and that the Trustee is relying on such information to administer this case. I further acknowledge that I understand penalties of perjury to be up to \$500,000.00, in fines and/or five (5) years imprisonment.

**I DECLARE UNDER PENALTY OF PERJURY THAT THE STATEMENTS
MADE HEREIN ARE TRUE AND CORRECT.**

Dated: _____

President

Debtor (Print Name and Position)

I have reviewed and explained the questions herein to the debtor(s). I further certify that a reasonable inquiry, as required by Bankruptcy Rule 9011, was conducted in the preparation of the debtor(s) Schedules and Statements.

Dated: _____

Attorney for Debtors

DOCUMENTS REQUIRED FOR TURNOVER TO TRUSTEE (CORPORATION/PARTNERSHIP)

In order for the Trustee to conclude a corporate and/or partnership debtor's 11 USC 341(a) Meeting certain documents are required for examination:

1. Minute Book;
2. Shareholder Register;
3. Tax returns for past two years
4. Income and Expense and Balance Sheet, Reports for past 1 year
5. Bank Statements and canceled checks for past 1. year
6. Copies of last two inventories, if applicable
7. Documentation of Intellectual property, i.e., patents,
trademarks, copyrights, royalties, etc., if applicable; and
8. Accounts Receivable, with all documents associated therewith.

The above documents are to be delivered to the Trustee as soon as possible for review. The 11 USC 341(a) Meeting will not be concluded until the Trustee review is complete.